IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

****

I.T.R. Nos.53 to 55 of 1990
Date of Decision:24.10.2006

The Commissioner of Income-tax,
Haryana, Rohtak

.....Petitioner

Vs.

The Haryana Financial Corporation Ltd.,
Chandigarh

.....Respondent

CORAM:- HON'BLE MR. JUSTICE ADARSH KUMAR GOEL
HON'BLE MR. JUSTICE RAJESH BINDAL

Present:- Shri Yogesh Putney, Advocate for the applicant.

****

ADARSH KUMAR GOEL, J.

At the instance of Revenue, Income Tax Appellate Tribunal, Chandigarh Bench, Chandigarh (for short, `the Tribunal') has referred the following questions of law arising out of its orders dated 5.2.1983 in I.T.A. No.230 of 1980, I.T.A. No.47 & 48 of 1981 relating to assessment years 1976-77, 1975-76 and 1977-78 for the opinion of this Court:-

> "(i) Whether on the facts and in the circumstances of the case, the Tribunal was justified in law in holding that under Section 36(1)(viii) the assessee was entitled to deduction of 47% of the total income arrived at without taking into account this deduction?"
>
> (ii) Whether the Tribunal is justified in overlooking the fact that the Commissioner of Income-tax had taken action under Section 263 after the issue of the relevant order dated 13.5.1979

by the Central Government Direct Taxes?"

The issue raised in this question stands settled by the decision of the Apex Court in Commissioner of Income-tax v. Andhra Pradesh State Financial Corporation, (1998) 233 ITR 195 and Commissioner of Income-Tax v. Kerala State Industrial Development Corporation, (1998) 233 ITR 197.

Shri Yogesh Putney, learned counsel appearing on behalf of the Revenue has not been able to dispute the applicability of the aforesaid two judgments to the facts of the present case.

Respectfully following the said judgments, we answer the question in the affirmative, i.e., against the Revenue and in favour of the assessee.

(ADARSH KUMAR GOEL)
JUDGE

October 24, 2006 **(RAJESH BINDAL)**
renu **JUDGE**